

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOAN C. BIRD, PR of Estate of Billy L. Bird,

Plaintiff,

v.

**PHH MORTGAGE; MORTGAGE ASSETS
MANAGEMENT, LLC; NATIONSTAR
MORTGAGE, LLC, and DOES 1-10**,
inclusive,

Defendants.

Case No. 3:22-cv-1030-JR

ORDER

John A. Cochran, Pacific Property Law LLC, 1021 SE Sunnyside Rd, Suite 300, Clackamas, OR 97015. Attorney for Plaintiff.

Joseph McCormick , III, Wright, Finlay & Zak, LLP, 612 S. Lucile Street, Suite 300, Seattle, WA 98108; Mohammed Workicho and Pilar C. French, Lane Powell, PC, 601 SW Second Ave, Suite 2100, Portland, OR 97204. Attorneys for Defendants.

IMMERGUT, District Judge.

Plaintiff filed this action as the purported representative of the Estate of Billy Bird, alleging violation of the Fair Debt Collection Practices Act, conversion, breach of the duty of good faith and fair dealing, and wrongful accounting. ECF 1. Defendant PHH Mortgage moves to dismiss or in the alternative for a more definite statement, asserting that Plaintiff lacks

standing as the complaint fails to allege she is either the borrower or has been appointed personal representative of the borrower's estate. ECF 10. On December 20, 2022, Judge Jolie A. Russo issued her Findings and Recommendation ("F&R"). ECF 23. The F&R recommends that this Court grant Defendant's Motion to Dismiss, ECF 10, and dismiss this action for failure to prosecute. No party filed objections. For the following reasons, this Court ADOPTS Judge Russo's F&R in full.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, sua sponte" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

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CONCLUSION

No party having filed objections, this Court has reviewed the F&R and accepts Judge Russo's conclusions. The F&R, ECF 23, is adopted in full. This Court GRANTS Defendant's Motion to Dismiss, ECF 10, and DISMISSES this case with prejudice.

IT IS SO ORDERED.

DATED this 6th day of January, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge